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September 27, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: Notice of Ex Parte Presentations
Mediacom Communications Corporation
MB Docket Nos. 10-71, 09-182, 07-294, 12-68, 07-18, 05-192

Dear Ms. Dortch:

On September 25, 2012, Rocco Commisso, Chairman and CEO of Mediacom Communications Corporation ("Mediacom"), Thomas Larsen, Mediacom's Group Vice President, Legal and Public Affairs, and the undersigned (collectively the "Mediacom Participants") met in separate meetings with: (i) Chairman Julius Genachowski, William Lake, Chief of the Media Bureau, and Elizabeth Andrion, Acting Chief of the Office of Strategic Planning and Policy Analysis; (ii) Commissioner Mignon Clyburn and Dave Grimaldi, Chief of Staff and Media Legal Advisor to Commissioner Clyburn; (iii) Commissioner Jessica Rosenworcel, David Goldman, Senior Legal Advisor to Commissioner Rosenworcel, and Alex Hoehn-Saric, Policy Director to Commissioner Rosenworcel; and (iv) Commissioner Ajit Pai and Matthew Berry, Chief of Staff to Commissioner Pai. In addition, Mr. Commisso and Mr. Larsen met with Commissioner Robert McDowell and Erin McGrath, legal advisor to Commissioner McDowell.

The purpose of the meetings was to discuss Mediacom's longstanding concerns regarding the state of the video marketplace and, in particular, how consumers are being harmed because of the absence of effective competitive or regulatory constraints on wholesale programming costs. The Mediacom Participants referenced letters addressing this subject from Mr. Commisso to the Commission and to the Senate Commerce Committee (copies of which are attached hereto) and reiterated various regulatory reform proposals that Mediacom has put forward in pending rulemaking proceedings relating to retransmission consent (MB Docket 10-71); program access (MB Docket Nos. 12-68, 07-18, and 05-192); and broadcast ownership (MB Docket Nos. 09-182 and 07-294), as follows:

The Commission can and should adopt meaningful restrictions on programmers' unfair volume discounting practices. The Mediacom Participants urged the Commission to address the unfair and discriminatory volume discounting practices routinely engaged in by programmers. Mid-sized and smaller multichannel video programming distributors (MVPDs), who often serve some of the nation's most economically depressed areas, routinely are charged higher wholesale rates for programming than the largest MVPDs. Not only does this drive up the cost of basic video service and make it more difficult for such MVPDs to compete, it also adversely impacts their ability to upgrade their broadband and other advanced service offerings. Under the Communications Act, price discrimination is supposed to be *per se* unlawful unless it is based on actual cost savings. However, the Commission has never required programmers to provide specific, provable justification for their discriminatory wholesale pricing practices. The Mediacom Participants referred the Commission to the proposals made by Mediacom in its pleadings in the pending program access proceeding, including the adoption by the Commission of rules requiring programmers to offer the same net effective rate for video programming to all MVPDs, regardless of technology, size, or market characteristics (subject to a special relief procedure whereby a programmer can establish that the discount is based on direct and actual volume-related savings) and requiring that programmers waive confidentiality provisions and disclose the net effective rates paid by various MVPDs.

The Commission can and should adopt meaningful restrictions on programmers' unfair bundling practices. The disparity in bargaining power between programmers and all but the largest MVPDs is further exacerbated by the programmers' practice of "bundling" an ever-growing suite of services and offering them at prices that make it uneconomical for an MVPD to take only those services it believes its customers need or want. Bundling also harms diversity and competition by squeezing out independent sources of programming. The Commission should amend its rules to require programmers who offer bundled programming rates to make their networks available for individual purchase at prices that do not exceed the bundled rates over the life of the agreement.

The Commission can and should adopt meaningful restrictions on collusive retransmission consent negotiations by multiple network affiliates in a single market. There is clear evidence that when one broadcaster negotiates retransmission consent for multiple stations in a market, the prices for retransmission consent are substantially higher. The Commission should make clear that retransmission consent negotiations must be conducted by stations individually and independently whether or not they have contractually ceded control of other operational functions to another station through an LMA, JSA, SSA, etc. The Commission also should close gaps in its broadcast ownership rules that allow stations to use their multicast capacity to create "virtual" Big Four duopolies.

The Commission can and should adopt rules that would lessen the impediments that effectively prevent MVPDs from seeking substitute sources of broadcast network programming when the local affiliate withholds retransmission consent. Retransmission consent negotiations would be more balanced and fair if network affiliates faced competition from affiliates in nearby markets. However, the Commission's network non-duplication rules, together with concerted action by broadcasters and networks to contractually limit the station's right to grant retransmission consent outside its DMA, effectively operate to prevent MVPDs from seeking out a substitute for a local broadcaster that is making unreasonable retransmission

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consent demands and/or threatening to withhold its signal from an MVPD's customers. The Commission should restrict broadcasters from exercising network non-duplication rights when they have withheld retransmission consent. Moreover, the Commission should amend its good faith negotiation rules to bar networks and their affiliates from entering into agreements that prevent the station from negotiating for carriage with MVPDs from outside their DMAs.

Finally, Mr. Commisso restated his willingness to freeze Mediacom's rates for its most popular video service tiers for two years if the programmers would likewise agree to freeze the fees they charge. Mr. Commisso urged the Commission to lend its vocal support to this proposal.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, a copy of this notice is being filed electronically in each of the relevant dockets and a copy is being provided to the office of each Commission participant in the meeting.

If you have any questions regarding this matter, please communicate directly with the undersigned.

Sincerely.

Seth A. Davidson
Counsel for Mediacom Communications Corporation

cc: Chairman Julius Genachowski
William Lake
Elizabeth Andrion
Commissioner Mignon Clyburn
Dave Grimaldi
Commissioner Jessica Rosenworcel
David Goldman
Alex Hoehn-Saric
Commissioner Ajit Pai
Matthew Berry
Commissioner Robert McDowell
Erin McGrath

Mediacom

Rocco B. Commisso
Chairman and Chief Executive Officer

July 20, 2012

United States Senate
Commerce, Science and Transportation Committee
254 Russell Senate Office Building
Washington, DC 20510

RE: July 24th Hearing on "The Cable Act at 20"

Dear Committee Members:

As a leading cable company focused on bringing advanced digital telecommunications services to small towns and rural communities, Mediacom strongly endorses the view of Chairman Rockefeller that the purpose of the 1992 Cable Act was **"to empower consumers and provide them with expanded choices at lower rates."** Unfortunately, that goal has not been fully realized. Although some claim that the Act did help accelerate the emergence of competition at the retail level, consumers were left vulnerable to abuses of market power by the media conglomerates and large broadcast station groups that control most television programming. The failure of the FCC to exercise its broad authority to close the gaps in the Act's regulation of the market at the wholesale level has empowered the content providers to engage in unfair pricing, bundling and other practices that have both restricted consumer choice and driven the wholesale cost of broadcast and non-broadcast channels upwards at a rate far in excess of inflation.[1]

For over a decade, joined by other industry participants and consumer advocacy groups, I have been speaking out about the broken market for multichannel video service and urging the FCC to take action. During that time, I have repeatedly warned that unless the FCC took effective action, things would only get worse for consumers. I take no satisfaction from the fact that events have proven me to be right. According to a recent NPD Group report, the average subscriber's bill for pay TV has grown to $86 per month and will reach more than $123 by 2015 and $200 by 2020.

In September 2011, I sent the attached letter to Chairman Genachowski identifying how content owners' practices were harming consumers, calling upon him to lead the FCC in fixing the problem and proposing specific solutions within the FCC's existing authority. Yet, despite the clear and compelling evidence that the immense power held by a handful of media giants has created a dysfunctional marketplace in which the harm to consumers is compounding every year, the FCC has failed to act.

In the short time since I sent the letter, content providers have forced dozens of shutoffs in markets across the country. As of yesterday, prolonged shutdowns involving Viacom/DirecTV, AMC/Dish Network and Time Warner Cable-Bright House/Hearst Television were grabbing headlines. Those three situations alone resulted in 40 million households, the equivalent of roughly 100 million Americans, losing access to dozens of programming channels. Although the disputes are eventually settled and the darkened channels restored, the settlement always involves consumers being forced to pay more for the same programming.

[1] As Mediacom stated in a recent filing in the FCC's proceeding on the sunset of the statutory exclusivity ban, these practices include forced bundling of channels, dictating tier placement, unjustified volume discounts and restricting use of new distribution technologies (copy of filing available at www.mediacomonyourside.com). In that and other filings we have demonstrated that, despite its disclaimers, the FCC has the authority to fix the problems plaguing multichannel video subscribers.

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Mediacom

Rocco B. Commisso
Chairman and Chief Executive Officer

September 1, 2011

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Genachowski:

Shortly after becoming Chairman, you said that protecting consumers was one of your goals, and you pledged that the Commission would "strive to be smart" about how its decisions affect consumers' lives. We respectfully submit that you cannot hope to achieve that goal if you allow the Commission to continue to ignore the escalating wholesale costs for television programming.

For nearly a decade, I have been speaking out about the harm to Americans caused by rising programming costs. I devoted my keynote address at a 2003 industry event to this issue, and predicted that things would only get worse unless the Commission took an active role in finding a solution. Your remarks when you were first appointed as Chairman encouraged us to believe that, under your leadership, the Commission would finally address the problem. I regret to say that it is now almost three years later and nothing has been done.

The Commission's inexplicable inaction:

- Costs Americans billions of dollars, as programming owners have increased their rates well in excess of inflation in every year since my speech, and there is no end in sight. One study found that monthly per-subscriber video programming costs for basic and expanded basic channels increased by 67% across all MVPDs between 2003 and 2008, **four times** the rate of inflation during the same period. There is no reason that any of this has to be the case, as I understand that the per-subscriber wholesale cost for cable/satellite television programming in the United States is as much as **three to five times** the cost in Europe.

- Adds to consumers' bills and severely limits their freedom of choice by allowing content owners to require MVPDs to buy costly bundles of networks and carry them on the most popular service tiers, so that subscribers are forced to pay for channels they do not want.

- Exposes consumers to service disruptions because the Commission refuses to adopt measures like binding arbitration to prevent content owners from using blackouts as a negotiating tactic.

- Forces consumers to pay more for less or, at best, to simply keep what they already have. Paying additional money for channels that customers already receive does not produce additional content. Given the original intent of retransmission consent, it is especially shameful that retransmission consent fees have dramatically increased even as movies and sports events migrate from broadcast channels to pay networks and broadcast stations severely cut staff and budgets for news and public affairs programming.

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- Banning programmers from forcing carriage on the basic, expanded basic or most popular digital tier.

- Preventing programmers from driving up the price of broadband, as well as video, service by replicating in the case of Internet video content the bundling and pricing practices that have been so detrimental to consumers of cable television service.

- Establishing a standstill mechanism and alternative dispute resolution to ensure service to consumers is not disrupted during negotiating impasses.

- Prohibiting a single company from negotiating for multiple big-four broadcast stations in a market, a network or other proxy from negotiating for multiple stations and a station group from refusing to offer consent for its stations on an unbundled basis and on reasonable terms.

- Instituting a carefully designed *a la carte* system, so that decisions about what video services are bought are made by consumers themselves, rather than by content owners.

The Commission, citing its duty to promote the public interest, has employed similar tools in other contexts, including its recent program carriage order. Frankly, the harm to consumers from the practices of television content owners is far greater than that flowing from many of the issues to which you have devoted so much of your personal attention and the Commission's resources. There is no excuse for the Commission not to at least try to assert its vast authority with the goal of restoring a semblance of balance to the video programming marketplace—there is nothing to lose if its actions are successfully challenged in court and much to gain if, as we fully expect, its authority is confirmed by the courts.

When, as is inevitable, the retransmission consent cycle beginning this October 1 and recurring renewal negotiations for cable networks trigger a fresh round of actual and threatened service disruptions and yet another subscriber rate increase, the Commission must share responsibility with the content owners. In this regard, as of 5 PM yesterday, we were forced by LIN Television Corporation to stop retransmitting its television stations to tens of thousands of Mediacom subscribers in multiple DMAs simply because we refused to surrender to its exorbitant and discriminatory demands for triple-digit increases in retransmission consent payments.

My passion with respect to the issue of programming costs and their impact on my customers and my employees is well-known. I have spoken frankly in this letter, but mean no disrespect. I think we share a desire for a nation in which all of our citizens have affordable access to a basic level of information and entertainment programming.

I would be happy to meet with you at any time to discuss how we can work together to reach our shared goals.

Sincerely,

Mediacom

Rocco B. Commisso
Chairman and Chief Executive Officer

March 20, 2012

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Amendment of the Commission's Rules Related to Retransmission Consent MB Docket No. 10-71

Dear Chairman Genachowski:

In your recent remarks to the American Cable Association ("ACA") about retransmission consent ("RTC"), you expressed your willingness to address the imbalance in negotiating power between station groups and smaller cable companies. While I continue to disagree with the narrow reading of the Commission's authority you reiterated in your remarks, I was heartened by your recognition that RTC is having a disproportionately negative impact on smaller cable operators and their customers.

As you know, for years I have spoken out against the unfair and discriminatory treatment of smaller cable operators and their customers by station group owners in RTC negotiations. For example, Mediacom, like many other ACA members, has experienced first-hand the broadcasters' practice during renewal negotiations of giving extensions to large MSOs while refusing similar extensions to smaller companies. Access to local broadcast television stations should not vary solely because of the size of the consumer's chosen pay television provider. Yet, that is exactly the situation that exists today.

Smaller systems also are routinely subjected to price discrimination by station groups, even though there is no cost differential or other economic reason that justifies charging them higher RTC fees than larger MVPDs. To add insult to injury, the higher prices demanded by broadcasters often are presented to smaller operators as take-it or shut-it-off propositions—if an operator dares to actually insist that the broadcaster honor its obligation to negotiate, the broadcaster punishes the operator by withdrawing its already outrageous demand and starting negotiations at an even higher price.

Moreover, even when the broadcast groups and networks are willing to negotiate, they often do not engage directly with the cable operator. Rather, they rely on outside counsel and consultants who have expertise in negotiating RTC agreements and, more importantly, frequently have "inside" information about deals that they worked on for other stations. This puts smaller operators, who typically lack internal expertise and the resources needed to employ outside experts, at a disadvantage in negotiating RTC.

Under the circumstances, it is hardly surprising that the cost of RTC is escalating at a pace that far outstrips inflation. The Commission's recent "price survey" showed that in 2009 cable prices for the "broadcast basic" tier rose at more than double the rate of inflation (and faster than the prices for the optional expanded basic tier). That data was two years old and, if anything, the situation is worse today. Several large broadcast groups and networks have reported double digit increases in their RTC revenue over the past year. A significant portion of those increases have been achieved on the backs of smaller cable operators, who are being targeted for RTC increases of more than 100 percent in many cases.

Fortunately, the Commission has tools at its disposal to address the harm that RTC is causing consumers. First, Congress made it clear that the Commission has a duty to ensure that RTC does not result in unreasonable increases in the cost of cable service. Second, the Commission has broad authority to ensure that the exercise of RTC reflects "competitive marketplace" considerations.

With these powers in mind, Mediacom and others have put forth a variety of proposals that, if adopted, would help remedy the lack of balance in RTC negotiations. For example, we have suggested that the Commission impose limits on network involvement in the RTC process.

A more direct approach, and one that the Commission itself has raised in the pending RTC rulemaking, is for the Commission to amend its rules to authorize smaller cable operators to designate larger operators to negotiate on their behalf. I strongly urge you to adopt such a rule. I also urge you to include in your rules a specific provision making it a violation of the good faith negotiation standard for a broadcaster that is negotiating RTC for multiple stations to refuse to negotiate with the designated representative of a smaller operator. These changes in the current rules will go a long way to addressing the disproportionate bargaining power that broadcast groups have in RTC negotiations with smaller cable operators.

Finally, I want to stress how urgent it is that the Commission take action to address the imbalance in the RTC marketplace. In your comments to ACA, you suggested that the number of RTC disputes appears to be declining. If only that were true. According to our research, consumers in 31 different DMAs were impacted by RTC-related service disruptions in 2011 and shutdowns have occurred in at least 20 additional DMAs in just the first eleven weeks of 2012. That is more than double the number of DMAs impacted by shutdowns in the preceding two years combined. Moreover, these figures do not reflect the hundreds of situations in which a shutdown was avoided only because the cable operator caved in to the broadcaster's threat to cut off consumer access to its signal unless the operator agreed to exorbitant price increases.

RTC disputes involving large pay television providers and major markets such as New York, Boston and Miami may be the ones that get attention from the national media, but millions of customers who live in smaller communities are being adversely impacted by RTC on a daily basis. I know that you share my belief that the Commission has an obligation to protect all television viewers no matter where they live or who they choose as their pay television provider. I urge you to move swiftly to address the concerns you recognized in your remarks to ACA.

As always, I would be happy to discuss these matters with you in person or by phone at your convenience.

Sincerely,

Mediacom

Rocco B. Commisso
Chairman and Chief Executive Officer

September 1, 2011

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street SW
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- Creates a new digital divide as the price of cable television service is driven steadily upward to levels that are beyond the means of more and more Americans, especially in a time of high unemployment and stagnant wages. The second quarter of 2011 marked the first time that video subscribership in the combined cable/telephone/satellite industries suffered a net decrease.

- Opens the door for programmers to leverage their online content into higher fees. Online viewing of television programs once available for free to everyone is beginning to be confined to MVPD subscribers whose distributor has agreed to pay the programmer extra as part of retransmission consent or cable network license deals. Programmers also plan to charge extra if a video subscriber wants to watch a show on his/her laptop, iPad or smart phone, rather than on the television set. These practices will drive up consumer prices even more and negatively impact the ability to extend the benefits of broadband and advanced technology across all income levels.

- Impedes achievement of the Commission's goal of increasing broadband penetration. There is a direct correlation between broadband adoption and video penetration rates, so that consumers who find cable television service unaffordable may also forego broadband subscriptions.

- Reduces the ability of cable companies to respond to your call to extend the availability of low-cost broadband service for the under-privileged. If MVPDs have to pay hundreds of millions more for the same programming every year, that necessarily means there is less money to support your initiative.

Contrary to accusations by industry critics, cable companies are reluctant to raise video subscriber rates because when we do, we lose customers. Mediacom does not make more money when we raise video prices, since we remit virtually every penny of the increase on to the content owners. Over the last three years, the increase in our programming costs was more than **double** the increase in video revenues, even after taking our subscriber rate increases and equipment charges into account.

I am deeply disappointed with the Commission's lack of interest in keeping multichannel television service affordable. Twice in the past five years, I have tried to stand up for consumers by resisting exorbitant demands for retransmission consent fees. And twice the Commission put the interests of broadcasters ahead of those of the viewing public. The Commission's position that it does not have the authority to intervene—even though a different interpretation of the law would clearly be sustainable—is forcing American consumers to pay billions of dollars for "free" over-the-air television without receiving anything more in return. Although retransmission consent fees have been the fastest growing component of programming cost increases, non-broadcast networks also keep pushing their charges higher and higher. Content owners have been unwilling to exercise the slightest measure of self-restraint, and are emboldened by the Commission's unwillingness to even try to impose some limits or speak out against programmers' practices.

Mr. Chairman, I respectfully call upon you to live up to the pledge you made when you took office and move forcefully to protect senior citizens, low-income households and rural residents from practices that are rendering cable television unaffordable. There are a range of tools at your disposal, including, but by no means limited to:

- Prohibiting price discrimination by program owners through volume discounting practices that prejudice millions of Americans living in rural areas and small towns throughout our nation.

- Increasing transparency by requiring broadcasters and cable networks to make public the prices they charge MVPDs in each market.

- Mandating the unbundling of stations and program services at the wholesale level.

- Banning programmers from forcing carriage on the basic, expanded basic or most popular digital tier.

- Preventing programmers from driving up the price of broadband, as well as video, service by replicating in the case of Internet video content the bundling and pricing practices that have been so detrimental to consumers of cable television service.

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The Commission, citing its duty to promote the public interest, has employed similar tools in other contexts, including its recent program carriage order. Frankly, the harm to consumers from the practices of television content owners is far greater than that flowing from many of the issues to which you have devoted so much of your personal attention and the Commission's resources. There is no excuse for the Commission not to at least try to assert its vast authority with the goal of restoring a semblance of balance to the video programming marketplace—there is nothing to lose if its actions are successfully challenged in court and much to gain if, as we fully expect, its authority is confirmed by the courts.

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Sincerely,